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ACTION
OCA 87-3662

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23 Aug 87

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
August 19, 1987

OFFICE OF CONGRESSIONAL AFFAIRS
87-3662

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

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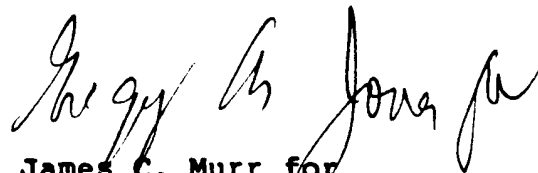
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RECEIPT # _____

SUBJECT: Department of Justice proposed report on H.R. 2383, a bill to amend the Immigration & Nationality Act to provide special immigrant status for certain aliens who have served honorably in the Armed Forces for 4 years.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than September 9, 1987

Direct your questions to Branden Blum (395-3454), the legislative attorney in this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: Tara Treacy	Barry Clendenin	Kevin Scheid
Tracy Davis	Jim Nix	
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U. S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Peter W. Rodino, Jr.
Chairman
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your request for the views of the Department of Justice on H.R. 2383, a bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain aliens who have served honorably in the Armed Forces of the United States for 4 years. For the reasons set forth below the Department of Justice recommends against enactment of this legislation.

The bill amends present Section 101(a)(27) of the Immigration and Nationality Act ("the Act") by adding a new subparagraph (J), granting special immigrant status to any alien who has served at any time in the Armed Forces of the United States for a period or periods aggregating four years, if recommended by the executive department under which the alien served. Four years is a very minimal requirement compared to the fifteen year requirements set forth for special immigrant eligibility in sections 101(a)(27)(D), employees of the United States Government abroad, and (F), Panamanian national employees of the United States Government in the Canal Zone. Even with fifteen years of service, the "D" immigrant may only be recommended for special immigrant status when "exceptional circumstances" exist. Even though military enlistment are in increments of four and six year terms, for reasons of fairness and consistency, we recommend a fifteen year minimum service requirement to replace the four year condition now contained in H.R. 2383. Additionally, the language of the bill does not specify the conditions of a recommendation by the executive department under which the immigrant served and is therefore vague in that it does not provide any criteria.

The legislation, H.R. 2383, contrasts with Section 329 of the Act, which provides for the naturalization of alien members of the Armed Forces who have served on active duty only during specified periods of war, e.g., World War I, World War II, the Korean Hostilities, the Vietnam Hostilities; or hostilities, as declared by the President. This bill would provide special immigrant status to aliens who serve or have served at any time and would in effect eliminate Section 329 of the Act.

This administration submitted a draft bill to provide for the posthumous naturalization of aliens killed while on active duty service with United States armed forces in Vietnam. The proposed bill would amend the Act by adding a new Section 329A and also adding a paragraph (J) to section 101(a)(27) to include as special immigrants, relatives of servicemen killed in action during the Vietnam conflict. H.R. 2383 should be coordinated with this proposed posthumous naturalization bill so that both do not contain amendments adding Section 101(a)(27)(J) to the Act.

The Department anticipates that if the bill passes as currently constructed, substantial costs would accrue to the government. By its language the bill encompasses any alien who has served at any time, including prior, during and after World War II. At a minimum, it would include Filipino World War II Veterans, and other Filipino enlistees who, by a 1952 agreement, may enlist at the rate of 1,000 per year for four or six year terms. As permanent residents, these persons and their families would be entitled to federal and state assistance programs. It would be useful for the Department of Defense to provide an estimate of the numbers who would qualify since we have no way of determining the actual numbers, but estimate the numbers could easily exceed 100,000.

Based on the low standard for eligibility and considering the potential financial impact, the Department of Justice recommends against enactment of this legislation.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

John R. Bolton
Assistant Attorney General